

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JOHN ERCELL STATON,

Plaintiff,

v.

Civil Action No. 2:06cv2

**DOCTOR HOFFMAN,
GOVERNOR JOE MANCHIN, III
POTOMAC HIGHLANDS REGIONAL JAIL,
and JIMMY B. PLEAR,**

Defendants.

ORDER

It will be recalled that on October 12, 2006, Magistrate Judge James E. Seibert filed his Report and Recommendation, wherein the plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections have been received.

Upon examination of the report from the Magistrate Judge, which recommends dismissal for failure to prosecute as the Plaintiff has failed to file the necessary forms, as requested, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's Complaint be, and the same hereby is, **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the Defendants. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis.

ENTER: June 21st, 2007

/s/ Robert E. Maxwell
United States District Judge